

(2020) 11 JH CK 0159
In the Jharkhand High Court
Case No : A.B.A. No. 5520 Of 2020

Rajesh Kumar Bhagat And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 04-11-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 406, 467, 468, 471
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2020) 11 JH CK 0159

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : R.S. Mzumdar, Vishwanath Roy

Final Decision : Allowed

Judgement

Heard the parties through video conferencing. Learned senior counsel for the petitioners undertakes to remove the defects pointed out by the stamp

reporter within two weeks after the lockdown is over.

In view of personal undertaking given by the learned senior counsel for the petitioners, the defects pointed out by the stamp reporter are ignored for

the present.

Apprehending their arrest in connection with Mohanpur P.S. Case No. 20 of 2019 instituted under Sections 406,467,468 and 471/34 of the Indian

Penal Code, the petitioners have moved this Court for grant of privileges of anticipatory bail.

Let notice be issued to O.P. No.2 under registered cover with A/D as well as under ordinary process for which requisites etc. must be filed within

two weeks by the petitioners, failing which, this bail application shall stand dismissed without further reference to the Bench.

Learned senior counsel for the petitioners submits that the allegation against the petitioners is that the petitioners were partners of the partnership firm

M/s. M.P. Bhagat & Co. and the said firm has allotted the work of laying Broad Gauge railway tracks from Jasidih to Deoghar, from Deoghar to

Ghormara and from Ghormara to Basukinath under the contract agreement dated 09.05.2007 by the Eastern Railway. It is alleged that for the

completion of allotted work, the petitioner's firm from time to time, requested for supply of materials from Eastern Railway which used to be supplied

to the firm under proper documentation and receipts. It is further alleged that the signature and seal on the receipts submitted by the petitioners

showing that surplus materials have been deposited by it, would show that the same were forged documents. It is next submitted by learned senior

advocate appearing for the petitioners that the allegation against the petitioners is false. It is further submitted by learned senior counsel for the

petitioners that the petitioners have completed the work allotted through contract agreement dated 09.05.2007 on time to the complete satisfaction of

the concerned Authority. It is further submitted by learned senior counsel for the petitioners that it is inevitable that part of the construction materials

get wasted or are rendered useless during transit or storage and hence surplus materials had been requested by the petitioners' firm under proper

documentation and receipts. It is next submitted that it is admitted by the informant that the surplus materials which were left after completion of the

allotted work were returned by the petitioner's firm to Eastern Railway which were duly received by the concerned Authorities under the seal and

signature of the informant and no illegality has been committed by informant and after the completion of the allotted work, the petitioners demanded

the payment of the money which was denied and being aggrieved, by the same the petitioner's firm invoked the arbitration agreement of the contract

and Hon'ble Calcutta High Court vide arbitration petition A.P. No. 401 of 2014 appointed the arbitrators to constitute Arbitrational Tribunal and the

learned Arbitration Tribunal referred the said signatures for inspection and verification to the Central Forensic Science Laboratory, Ministry of Home

Affairs, Kolkata and the report submitted by Mr. Sujoy Mitra shows that the signatures have not been forged and he concluded that upon matching the

original signature of the informant were found to be the same as on the disputed receipt, thus the forensic report proved that the signatures of the

informant upon the disputed receipt are not forged. It is next submitted by learned senior counsel for the petitioners that no offence has been made out by the petitioners. Hence, it is submitted that the petitioner be given the privileges of anticipatory bail.

List this case on 06.01.2021.

Considering the submissions of learned counsels and the facts as discussed, I am inclined to pass an interim order of anticipatory bail to the petitioners

till 06.01.2020. In case of the petitioners being arrested by the police on or before 06.01.2021, they shall be released on bail provisionally on furnishing

bail bond of Rs.25,000/- (Twenty five thousand) each with two sureties of the like amount each to the satisfaction of the officer concerned in

connection with Mohanpur P.S. Case No.20 of 2019 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.